

which addresses the State's 30(b)(6) depositions of *the Cargill Defendants*, goes well beyond the scope of the Court's directive. Accordingly, paragraph 9 of the Cargill Defendants' status report should be stricken.

2. Specifically, issues pertaining to the 30(b)(6) depositions of *the Cargill Defendants* are simply not before the Court, and their inclusion in the status report is improper.

3. Additionally, the Cargill Defendants' status report seeks entry of a court order, and therefore paragraph 9 is not a status report, but rather an improper motion. *See* Fed. R. Civ. P. 7(b)(1) ("A request for a court order must be made by motion") (emphasis added). Had the Cargill Defendants properly brought a motion, under due process principles and pursuant to LCvR 7.2(e), the State would be entitled to 18 days to respond to the relief being sought. *See* LCvR 7.2(e). The Cargill Defendants are apparently attempting to circumvent the procedural protections afforded the State.¹

4. Moreover, in any event, it would be an unfounded motion. As a review of the State's 30(b)(6) notices of the Cargill Defendants reveals, *see* Exs. 1 & 2 to Cargill Defendants' Status Report, many of the topics on which the State seeks discovery are central to issues raised in the preliminary injunction. To delay the State's 30(b)(6) depositions of Cargill until after the preliminary injunction hearing would thus unfairly prejudice the State not only in its preliminary injunction preparations, but also in its preparations for its expert disclosures, which are currently scheduled for April 1, 2008.

5. Further, the purported "onerous deposition schedule" that the Cargill Defendants complain of, *see* Cargill Defendants' Status Report, ¶ 5, is one of the Defendants' own making. The vast majority of the depositions listed on Exhibit 4 to Cargill Defendants' Status Report are

¹ Should the Court convert the Cargill Defendants' request into a motion, the State reserves its right to file a response consistent with the terms and procedures of LCvR 7.2(e).

depositions noticed by Defendants, not the State. Ten attorneys are listed as appearing on behalf of the Cargill Defendants, and thus the Cargill Defendants should be able to devote the resources necessary to comply with their 30(b)(6) discovery obligations.

6. Simply put, the State has no objection to the Cargill Defendants putting off the 30(b)(6) depositions of the State until after the preliminary injunction. But the State does object to delaying the State's 30(b)(6) depositions of the Cargill Defendants. The State further objects to the improper manner in which the Cargill Defendants have sought this relief.²

WHEREFORE, premises considered, the State's motion to strike paragraph 9 of the "Supplemental Status Report Regarding Cargill Defendants' Motion to Compel Plaintiffs [sic] to Designate Deponents Under Rule 30(b)(6) and State of Oklahoma's Motion for Protective Order Regarding the Conduct of 30(b)(6) Depositions of the State" should be granted.

Respectfully Submitted,

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² As is evident from paragraph 7 of the Cargill Defendants' Status Report and Exhibit 5 thereto, the State has offered to meet and confer with the Cargill Defendants in an effort at accommodation. Thus, the relief being sought by the Cargill Defendants is, yet further, inappropriate under LCvR 37.1.

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